

*In The Matter Of:*

SAFECO INSURANCE COMPANY OF AMERICA,  
SAFECO INSURANCE COMPANY OF ILLINOIS,  
FIRST NATIONAL INSURANCE COMPANY OF AMERICA,  
GENERAL INSURANCE COMPANY OF AMERICA,  
AMERICAN ECONOMY INSURANCE COMPANY, )  
AMERICAN STATES INSURANCE COMPANY, )  
AMERICAN STATES PREFERRED INSURANCE COMPANY, )

Authorized Insurers, )

Order No. D04-83

**CONSENT ORDER  
LEVYING A FINE**

To: Safeco Property and Casualty Insurance Companies  
Safeco Plaza  
Seattle, WA 98185

*Comes Now the Insurance Commissioner of the State of Washington, pursuant to the authority set forth in RCW 48.02.080 and RCW 48.05.185, and having reviewed the official records and files of the Office of the Insurance Commissioner, makes the following:*

**FINDINGS OF FACT:**

1. Safeco Insurance Company of America, Safeco Insurance Company of Illinois, First National Insurance Company of America, General Insurance Company of America, American Economy Insurance Company, American States Insurance Company, and American States Preferred Insurance Company are property and casualty insurers authorized to do business in the State of Washington and are wholly owned subsidiaries of the Safeco Corporation and are hereafter referred to as "Safeco" or "companies."
2. The Office of the Insurance Commissioner (OIC) conducted a market conduct examination of Safeco covering the time period between February 1, 2000, and January 31, 2001. This examination included a review of the areas of agent licensing, advertising, rate and form filings, claims settlement practices, underwriting and rating, and cancellations and non-renewals, and complaints.
3. The examination report for the market conduct examination of Safeco, covering the period February 1, 2000, through January 31, 2001, was adopted by the Insurance Commissioner by Findings, Conclusions, and Order Adopting Report of Market Conduct Examination No. G 03-09, entered January 30, 2003, which order is final.

4. RCW 48.05.190(1) requires every insurer to conduct its business in its own legal name. The examiners found 23 policies, 12% of the underwriting sample, that contained certificates of insurance or other evidence of insurance documents that identified the wrong insurer or did not identify the true insurer, and the examiners found 9 letters in claims files, 3% of the sample (9 of 440 claims files) that did not identify the true insurer or identified the wrong insurer.
5. For additional policies, non-renewal notices and other correspondence also did not state the true legal name of the insurer, and subrogation correspondence likewise failed to state the true legal name of insurer.
6. Pursuant to RCW 48.19.040, it is unlawful for an insurer to issue an insurance contract or policy except in accordance with its rate filings then in effect. The examiners found 70 commercial policies that were not rated according to the companies' filed plans or rates, 69 policies in which the companies used an expense modifier that was not filed and approved for use and 1 policy that was not rated according to the company's filing.
7. Pursuant to WAC 284-24-100, commercial schedule rating plans must provide for no more than a twenty-five percent credit or debit and be based upon specific factual information supporting the rating, and records supporting development of individual risk modifications must be kept and made available at all reasonable times for the commissioner's examination. The examiners found 57 policies, 14.8% of the sample examined, in which the companies' files did not contain documentation to support debits or credits or did not explain why eligible policies were not considered for schedule rating. These violations repeated violations found in the OIC's last previous market conduct examination of Safeco the report for which examination was adopted in 1991.
8. Pursuant to RCW 48.18.103, forms for commercial property casualty policies must be filed within thirty days of the policies' first use. Pursuant to RCW 48.18.100, it is unlawful for an insurer to issue an insurance contract or policy except in accordance with its form filings then in effect, RCW 48.18.140(2)(f) requires that the policy specify the conditions pertaining to the insurance, and pursuant to RCW 48.18.190, the policy must contain the entire contract. The examiners found 2,234 farm policies that were issued with advisory forms identified by form number on the declarations pages which had not been filed for approval and which Safeco had not intended to become part of the policies. The companies were also attaching documents such as schedule rating worksheets, rating worksheets, consumer privacy statements, and advisory notices to farm policies which were not intended to become part of the policies.
9. The examiners also found 23,101 policies that did not have building coverage to which the companies did not attach a mandatory form, form BP7080, and two policies that did not have attached Ultra Contractor Liability Plus Endorsement form CG 8603 as required by the Ultra Contractor program.

10. Pursuant to RCW 48.18.290 and RCW 48.18.2901, cancellation and non-renewal notices generally must be sent at least 45 days prior to the effective date of the effective date of termination of coverage, although RCW 48.18.291 generally permits a minimum of twenty-days notice for private passenger automobile policies. The examiners found 1 commercial policy in which company did not give the policy holder at least 45 days notice of cancellation and 159 private passenger automobile policies in which the company used the statutory minimum 20 day notice even though the policies stated that the insureds would be notified at least 45 days prior to cancellation.
11. Pursuant to WAC 284-30-570, an insurer must state the true reason for canceling, denying, or refusing to renew an insurance policy in clear and simple language and in such detail that the insured is able to understand the reason without resorting to additional research. Of 170 policies reviewed, the examiners found 13 commercial policies and 15 personal lines policies in which non-renewal notices failed to state the reason for the non-renewal with sufficient clarity and detail to permit the insured to understand the reason without resorting to additional research.
12. Pursuant to WAC 284-30-395, insurers must provide insureds who submit PIP claims with a written explanation of the coverage provided by the policy. The examiners found 1,430 claims opened and closed with payments between February 1, 2000, and June 30, 2001, which did not contain evidence that the companies had provided the required coverage explanations.
13. Pursuant to WAC 284-30-340, claim files are to contain all notes and work papers pertaining to the claim in such detail that pertinent events and their dates can be reconstructed. Out of 440 files reviewed, 32 (7%) did not contain detailed log notes and work papers allowing reconstruction of such events and dates.
14. Pursuant to WAC 284-30-574, an insurer may not rely solely on the cancellation, non-renewal, or termination of another insurer to deny coverage but must make its own independent decision on the merits. The companies maintained a three-tier program for underwriting homeowners coverage, each tier with a different company, under which an applicant who had been canceled or non-renewed by another carrier would not be considered for placement with two of the three companies and would automatically be placed in the standard market only.
15. As a result of examination findings, Safeco made refunds to insureds totaling \$14,291.

Based upon the foregoing Findings of Fact, the Commissioner makes the following:

### **CONCLUSIONS OF LAW**

1. RCW 48.05.185 authorizes the Insurance Commissioner to impose a fine in lieu of the suspension or revocation of a company's license.
2. The companies committed the following violations of Washington law:

- a. The companies' use of correspondence, evidence of insurance documents, and notices that failed to identify the actual company or that identified the wrong company violated RCW 48.05.190;
- b. The companies' use of rates that were not in accordance with the companies' rates and forms filings then in effect violated RCW 48.19.040 and RCW 48.18.100.
- c. The companies' failures to document the application of commercial rating schedules violated WAC 284-24-100.
- d. The companies' issuance of policies that were not in accordance with the companies' filed forms, the companies attachment to policies of notices and advisory forms that were not intended to become part of the policies, and the companies failure to attach other forms which were mandatory under its filings violated RCW 48.18.100, RCW 48.18.103, RCW 48.18.140(2)(f), and RCW 38.18.190.
- e. The companies' use of the wrong effective dates in cancellation and non-renewal notices violated RCW 48.290 and RCW 48.18.2901.
- f. The companies' failures to state the reason for not renewing policies in clear and simple language and in sufficient detail to enable the insureds to understand the reason with additional research violated WAC 284-30-570.
- g. The companies' failure to provide clear and simple explanations of non-renewal decisions violated WAC 284-30-570.
- h. The companies' failure to document coverage explanations to PIP claimants violated WAC 284.30.395.
- i. The companies' failure to keep notes and work papers in claims files sufficient to document events and dates violated WAC 284.30-340.

## **CONSENT TO ORDER**

NOW, THEREFORE, Safeco consents to the following in consideration of its desire to resolve this matter without further administrative or judicial proceedings, and the Insurance Commissioner consents to settle the matter in consideration of Safeco' payment of a fine and such other terms and conditions as are set forth below:

1. Safeco consents to entry of the foregoing Findings of Fact and Conclusions of Law as they pertain to these facts, consents to the entry of this Order, and waives further administrative or judicial challenge to the OIC's actions related to the subject matter of the Order;
2. Within thirty days of the entry of this Order Safeco agrees to pay to the OIC a fine in the amount of \$100,000, of which \$50,000 is suspended for a period of two years on condition that

Safeco shall not violate the provisions of the Washington State Insurance Code or Washington Administrative Code which are the subject of this Order and on condition that Safeco carry out the provisions of, and fully comply with, the Compliance Plan set forth in Exhibit A.

3. Failure to pay the fine set forth in paragraph two shall constitute grounds for the revocation of the companies' certificates of authority and for the recovery of the full fine, including the suspended portion;

4. Safeco understands and agrees that failure to comply with the statutes and regulations which are the subject of this Order during the two-year period following entry of this Order or failure to comply with the Compliance Plan set forth in Exhibit A shall constitute grounds for recovery of the suspended portion of the fine.

5. The OIC will not impose the balance of the fine nor proceed against Safeco's certificates should Safeco commit isolated, de minimis, violations of the statutes and regulations that are the subject of this Consent Order during the suspense period, as determined by the OIC. Safeco commits to rectifying such violations promptly once they are discovered.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2004.

Safeco Insurance Companies

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Typed Corporate Title: \_\_\_\_\_

#### **ORDER OF THE INSURANCE COMMISSIONER**

NOW, THEREFORE, pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

1. Safeco Insurance Company of America, Safeco Insurance Company of Illinois, First National Insurance Company of America, General Insurance Company of America, American Economy Insurance Company, American States Insurance Company, and American States Preferred Insurance Company ("companies") are ordered to pay a fine in the amount of \$100,000, of which amount the sum of \$50,000 is suspended upon the condition that the companies fully comply with the laws and regulations of the State of Washington which are the subject of this Order for the next two years and upon the condition that the companies fully carry out their obligations under the Compliance Plan attached hereto as Exhibit A;

2. The payment liability and compliance obligations of the companies under this Order are joint and several;

3. The companies shall comply with and carry out the Compliance Plan set forth in Exhibit A hereto, which Compliance Plan is hereby incorporated into this Order by reference as though fully set forth herein;

4. The companies' failure to pay the fine within the time limit set forth above shall result in the revocation of the insurers' Certificates of Authority, and in the recovery of both the suspended and unsuspended amounts of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington; and

5. The OIC will not impose the balance of the fine nor proceed against Safeco's certificates should Safeco commit isolated, de minimis, violations of the statutes and regulations that are the subject of this Consent Order during the suspense period, as determined by the OIC. Safeco commits to rectifying such violations promptly once they are discovered.

ENTERED AT TUMWATER, WASHINGTON, this \_\_\_\_ day of \_\_\_\_\_, 2004.

MIKE KREIDLER,  
Insurance Commissioner

By: \_\_\_\_\_  
Charles D. Brown  
Staff Attorney  
Legal Affairs Division

**EXHIBIT A**  
**Washington Market Conduct Examination**  
**Compliance Plan**

The following outlines our plan prepared in response to the December 2003 Consent Order. Caption titles refer only to those items identified in the Consent Order.

**1. Compliance with RCW 48.05.190(1).**

Response: We will continue to utilize procedures in place for this issue. Company employees are reminded via broadcast message and internal company newsletter of the need to properly identify the specific company name on all correspondence. In addition, instructions for employees on using specific company names are posted on our Intranet. We have communicated to supervisors and managers their responsibility to assist employees with any questions regarding this issue.

**2. Compliance with WAC 284-24-100.**

Response: Training is provided to underwriters, addressing statutory requirements for documentation related to schedule rating, outlining parameters for the use of schedule rating and providing a list of resources and links to additional information on this topic. Training on schedule rating is reinforced by follow-up classes and team meetings. Underwriting managers are tasked with providing their staff frequent reinforcement on schedule rating.

To ensure compliance with WAC 284-24-100, we will perform two annual self-audits of 50 files. The first audit will be performed by December 31, 2003 and the second by December 31, 2004. Results of these audits will be reported to the OIC in February of the following year.

**3. Compliance with WAC 284-30-574.**

Response: Action by a prior carrier is not a factor in customer tier placement. Our automated new business entry system initially screens applications and places customers in the appropriate tier based on a combination of evaluated factors. While information on action by a prior carrier appears on the application, it is not one of the factors evaluated or used for initial tier placement, nor are any subsequent decisions based solely on this factor.

We do not decline or terminate business based solely on another insurer's decision. New business is accepted into the appropriate tier based on individual risk characteristics.

We will perform one self-audit of 50 files to ensure that negative action by a prior carrier is not considered in placement of new business. This audit will be completed by October 31, 2003. Results of this audit will be reported to the OIC by February 29th, 2004.

**4. Compliance with RCW 48.19.040(6).**

Response: We do not use the Expense Modification Plan at issue in this audit.

We will confirm annually with underwriting management that we are not using the Expense Modification Plan at issue in this audit. We will also confirm that any expense modification used in Safeco commercial policies adheres to the Schedule Rating Plan on file with the OIC. Results of this review will be reported to the OIC in February of 2004 and February of 2005.

**5. Compliance with form requirements.**

Response: Policyholder notices and other general information forms are not listed on the declarations page.

We will perform two annual self-audits of policy output for 50 farm and other commercial policies to ensure that only appropriate forms are displayed on the declarations page. The first of these audits will be performed by December 31, 2003 and the second by December 31, 2004. The results of these audits will be reported to the OIC in February of the following year.

**6. Compliance with RCW 48.18.290, RCW 48.18.2901, and RCW 48.18.292.**

Response: Commercial Lines: We will perform two annual self-audits of 50 policies non-renewed or cancelled to ensure that customer notifications are sent within the required time frames. The first of these audits will be completed by December 31, 2003 and the second by December 31, 2004. Results of these audits will be reported to the OIC in February of the following year.

Personal Lines: We will perform two annual self-audits of 50 policies non-renewed or cancelled to ensure that customer notifications are sent within the required time frames. The first of these audits will be completed by October 31, 2003 and the second by October 31, 2004. Results of these audits will be reported to the OIC in February of the following year.

**7. Compliance with WAC 284-30-340.**

Response: Claims representatives are instructed to identify pertinent events and dates of events are recorded in work papers and log notes in such detail that the claim can be reconstructed as required in WAC 284-30-340.

We will perform two annual self audits of 50 claims files to confirm that pertinent events and dates of events are recorded. The first of these audits will be completed by October 31, 2003 and the second by October 31, 2004. The results of these audits will be reported to the OIC in February of the following year.

**8. Compliance with WAC 284-30-395.**

Response: We are using letters that comply with the administrative code.

We will perform two annual self-audits of 50 claims files to confirm that PIP claimants are notified within a reasonable time of receiving notice of an insured's intent to file a claim. The first of these audits will be completed by October 31, 2003 and the second by October 31, 2004. Results of these audits will be reported to the OIC in February of following year.



**9. Compliance with WAC 284-30-570.**

Response: We have communicated to all underwriters the necessity of providing specific, clear reasons for canceling, denying or refusing to renew policies.

We will perform two self audits of 50 Personal Lines and 50 Commercial lines declinations, cancellations, and non-renewals, ensuring clarity and detailed reasons on notices sent to customers. The first of these audits will be completed by December 31, 2003 and the second by December 31, 2004. Results of these audits will be reported to the OIC in February of the following year.